IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5117 OF 2000

Smt. Sulochana Krishnaji Shinde .. Petitioner.

V/s.

The Principal Secretary, Law and Judiciary Dept.,Mantralaya & Anr. .. Respondents.

Mr. Suresh S.Shah for the Petitioner.

Mr.V.A. Sonpal, AGP for the Respondent Nos.1 & 2.

CORAM : F.I. REBELLO AND R.M. SAVANT, JJ.

DATED : 21st JUNE, 2007.

P.C. :-

. The petitioner is a widow must be now aged about 93 years. Her husband was working as Section Writer (as an unpaid candidate) in the District Court, Ratnagiri. He expired on 7th of June 1945. The then erstwhile Government of Bombay issued a resolution on 7th of May, 1948, deciding to absorb section writers on the establishment of the district courts as government servants w.e.f. 1st June, 1948. The resolution was applied to such persons who were in service on 7th of June, 1948. It is the petitioner’s case that on 16th April, 1984, the Respondent through Finance Department

issued resolution thereby deciding to grant family pension to the widows of those government servants who retired prior to 1st of January, 1964. However, a circular was issued on 12.11.1984, clarifying the earlier resolution and some further directions came to be issued thereafter. Based on the said resolution the petitioner applied for family pension. On consideration, the petitioner was informed that she was not entitled for family pension. Hence the present petition.

2. Reply has been filed on behalf of the Respondents. It is stated that the husband of the petitioner was not employed on a pensionable post. The petitioner's late husband expired on 7th June 1945. The Government's decision to absorb those in service was w.e.f. 1st June, 1948. The petitioner's husband, therefore, could not be absorbed.

3. Considering the above fact, it will be clear that the petitioner's husband was not holding any post in the State. The question of payment of family pension would, therefore, not arise.

4. In the light of that, we find no reason to interfere. Rule discharged. No order as to costs.

5. By an ad-interim order of this court, some pension was paid to the petitioner. We direct the respondents, considering that the petitioner, who is a widow of 93 years old, not to make any recovery in respect of the pension already paid.

(F.I.REBELLO,J.)

(R.M.SAVANT,J.)

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